



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
|-----------------|-------------|----------------------|---------------------|
|-----------------|-------------|----------------------|---------------------|

09/763,511 05/22/01 ALBERT

D 31386

023589 IM52/0924
HOVEY WILLIAMS TIMMONS & COLLINS
2405 GRAND BLVD., SUITE 400
KANSAS CITY MO 64108

EXAMINER

ALVO, M
ART UNIT

PAPER NUMBER

1731

DATE MAILED:

09/24/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/763,511

Applicant(s)

ALBERT ET AL.

Examiner

Steve Alvo

Art Unit

1731

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extension of time will not be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on ____ .

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-12 is/are pending in the application.

 4a) Of the above claim(s) ____ is/are withdrawn from consideration.

5) Claim(s) ____ is/are allowed.

6) Claim(s) 1-12 is/are rejected.

7) Claim(s) ____ is/are objected to.

8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on ____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____ .
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ .

4) Interview Summary (PTO-413) Paper No(s) ____ .

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____

Art Unit: 1731

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over BEALL et al '308 or BEALL et al '728.

The claimed sound reads on the ultrasonic (ultrasound) waves of BEALL et al '308 or BEALL et al '728 as sound waves. Ultrasonic waves are sound waves outside the human range of hearing. If the ultrasound waves of BEALL et al '308 or BEALL et al '728 are not thought to be sound waves then the alternativeness of using sound (sonic) and ultrasound waves on wood is taught by BEALL et al '308 or BEALL et al '728 (see BEALL et al '728, column 3, lines 16-25 or BEALL et al '308, column 3, lines 13-22).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-30 are rejected under 35 U.S.C. 103(a) as obvious over BEALL et al '308 or BEALL et al '728 with or without CHASE.

Art Unit: 1731

BEALL et al '308 or BEALL et al '728 teach sending sound waves (ultrasonic) waves through wood and measure the velocity of the sound waves passing through the wood and determines characteristics of the wood, e.g. dynamic strength (BEALL et al '728, col. 2, line 1 or BEALL et al '308, col. 2, lines 2-3), moisture content, internal knots and/or wood density (column 9, lines 15-16). CHASE teaches that the strength measurements of wood are related to the fiber length of the wood fibers. If BEALL et al '308 or BEALL et al '728 are not thought to teach assessing the fiber characteristics, e.g. fiber length, from the strength measurements of BEALL et al '308 or BEALL et al '728 then such would have been obvious from the teachings of CHASE. It would have been obvious to generate the noise by impact instead of the ultrasonic generator of BEALL et al '308 or BEALL et al '728 as BEALL et al '308 or BEALL et al '728 teaches that it is known to generate the sound by impact (BEALL et al '728, column 2, lines 25-32, or BEALL et al '308, column 2, lines 29-36

When filing an "**Official**" FAX in Group 1730, please indicate in the Header (upper right) "**Official**" for papers that are to be entered into the file. The "**Official**" FAX phone numbers for this TC 1700 are:

Non-Final Fax: (703) 872-9310
After-Final FAX: (703) 872-9311

When filing an "**Unofficial**" FAX in Group 1730, please indicate in the Header (upper right) "**Unofficial**" for Draft Documents and other Communications with the PTO that are not for entry into the file of the application. This will expedite processing of your papers. The "**Unofficial**" FAX phone number for this Art Unit (1731) is (703) 305-7115.

Art Unit: 1731

Any inquiry concerning this communication or earlier communications from the **primary examiner** should be directed to **Steve Alvo** whose telephone number is **(703) 308-2048**. The Examiner can normally be reached on Monday - Friday from **6:00 AM - 2:30 PM (EST)**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Stanley Silverman, can be reached on 703-308-3837.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Group receptionist** whose telephone number is **(703) 308-0661**.

The **Customer Services Center for Technology Center 1700 (703-306-5665)** shall provide the following service assistance to external and internal customers in the areas listed below.

Services provided:

- Patent Application Filing Receipts
- Missing References
- Information regarding When Action can be Expected
- Lost/Misplaced/Requested Application retrieval
- Retrieval from PTO Publication Branch
- Retrieval from non-Publication Branch
- Status Queries (written or oral)
- Paper Matching Queries
- Certificates of Correction.
- Printer Waiting

The Customer Service Office, TC 1700, is located in CP3-8-D13, and is open to receive requests for service in person, by phone **(703) 306-5665**, or E-mail "Customer Service 1700" from 8:30 am-5:00 pm each business day. The Customer Services Center is part of the Special Programs Office of TC 1700 and will be staffed by the Technical Information Specialists who will serve as Customer Service Representatives (CSR): Carolyn E. Johnson, Marshall Gaddis, Bessie Bowie, Lucy Jones.

MSA
September 20, 2001



STEVE ALVO
PRIMARY EXAMINER
ART UNIT 1731